

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 1087 of 2001****For Approval and Signature:****HONOURABLE MR.JUSTICE JAYANT PATEL**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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RASHMIKABEN BAHECHARBHAI PATEL - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR SANJAY M AMIN for Petitioner(s) : 1 - 2.
MR DIPAN DESAI, Ld. AGP for Respondent(s) : 1 - 2.
(MR ANANT S DAVE) for Respondent(s) : 1,4 - 13.
M/S THAKKAR ASSOC. for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 02/02/2006

ORAL JUDGMENT

1.The short facts of the case are that the petitioners, who have obtained admission in PTC after 12th Standard and thereafter on the basis of PTC have applied for the

post of Vidhya Sahayak. The challenge by the petitioners in the petition is that the marking criteria for allotting 40 marks to the examination of HSC should not be equated with the examination of SSC and it has been submitted that there should be identical classification for counting of the marks on the basis of SSC examination. It is further the case of the petitioners that the petitioners have secured higher marks in SSC and lesser marks in HSC and if other candidates who have obtained admission in PTC after SSC, for the purpose of appointment of Vidhya Sahayak are to be considered on the basis of the marks in SSC, there is no reason why the petitioners should also be given same treatment. It is the contention of the petitioners that if the marking is reconsidered on the basis of SSC, the petitioners' name would stand above in the merit list and, therefore, the petitioner has approached this Court for challenging the said policy/resolution of the Government and also the order passed by the State Government after the representation was made by the petitioner in pursuance of the order dated 22.11.2000 passed by this Court (Coram: H.K. Rathod, J.) in SCA No.9147 of 2000.

2.Heard Mr.Amin, learned Counsel for the petitioner,

Mr.Desai, learned AGP for the State and Mrs.Pahwa, learned Counsel for Respondent No.3. Nobody appears for the other private respondents.

3.As such the scope of judicial review in a matter of appointment based on a particular qualification is by now well-settled. This Court cannot sit in appeal over the decision of the authority providing particular method of marking based on a particular qualification and normally such functions must be left to the executives or academicians, who rather can be said as expert in the field. Unless such decision is absurd on the face of it, normally this Court would not interfere in such matters. If the aforesaid test is taken into consideration and the matter is examined, it does appear that earlier for admission to PTC requirement was passing of 10th Standard i.e. SSC. Thereafter, such qualifying standard for admission to PTC is altered and is made 12th Standard i.e. HSC. With a view to see that some room is also left with the person, who has obtained PTC after passing 10th Standard in the resolution it was provided to allot 40% on the basis of the marks obtained at the examinations of HSC/SSC, as the case may be. It is an admitted position that the petitioner had taken admission in PTC on the basis of

HSC marks and not on the basis of SSC marks. Therefore, the qualification of the petitioner is to be considered as per the resolution based on HSC marks plus PTC marks. The contention of the petitioner is that if in respect of other students who have passed PTC based on 10th Standard, the marks to be considered are as that of SSC, the petitioner should also be extended the same benefit for the purpose of consideration for the post of appointment of Vidhya Sahayak. It further appears that the petitioner had earlier approached this Court by preferring SCA No.9147 of 2000 and this Court as per the order dated 22.11.2000 had relegated the petitioner to make representation. Such representation is made to the State Government and the same is decided as per the order dated 22.1.2001, copy whereof is produced at Annexure "F". The perusal of the said decision of the State Government shows that since subsequently the qualifying standard of admission to PTC is altered from SSC to HSC, the marks of SSC marks of the students, who have passed PTC after getting admission after completion of SSC are to be considered and in case where the students have passed PTC on the basis of the passing of HSC, the marks of HSC are to be considered.

It is further stated that by now based on the said policy about 42000 Vidhya Sahayak are already appointed and, therefore, if any alteration is made in the marking method, it may result into adversely affecting not only the merits, but may result into disturbing the appointment of large number of candidates and, therefore, the decision is taken to reject the representation. Such a decision does not appear to be unjust or arbitrary, because if the criteria provided for appointment is not altered on account of the fact that the appointments of thousands of candidates are already made, the same cannot be termed as unreasonable or arbitrary.

4. However, Mr. Amin, learned Counsel appearing for the petitioner has submitted that in the present case, same classes are given different treatment in the matter of considering for appointment for the post of Vidhya Sahayak and in his contention, as the petitioner has also passed SSC examinations, marks should be considered of the petitioner of 10th Standard i.e. SSC and not of 12th Standard i.e. HSC in comparison to the other students, who have passed 10th Standard (SSC) and thereafter opted for PTC.

5. It cannot be said that the petitioner is situated on

the same position as the person, who has taken admission to PTC after passing 10th Standard (SSC). If the marks obtained by the petitioner at the qualifying entry to PTC i.e. HSC is considered, such cannot be said as ex-facie arbitrary or absurd. The rational appears to be the marks to be considered at the qualifying standard for admission to PTC and the marks obtained at PTC. I find it proper to leave the matter at that stage, because as observed earlier this Court would not sit in appeal, because it is decision of the Authority providing a particular qualification for consideration for the appointment to the post of Vidhya Sahayak. In any case, it cannot be said that any discretionary treatment is given amongst same classes by the State Authority while formulating the policy of providing criteria for appointment to the post of Vidhya Sahayak. The aforesaid is coupled with the aspect that as observed by the State Government in the order upon representation of the petitioner, the appointment of about 42000 candidates are already made based on the criteria, which is under challenge in this petition.

6. In view of the above, I find that the petition is without any merit and the same deserves to be

dismissed. Hence, dismissed. Rule discharged.
Considering the facts and circumstances, there shall be
no order as to costs. Interim relief granted earlier
shall stand vacated.

2.2.2006

(Jayant Patel, J.)

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